

L.N. 74 of 2016

**Merchant Shipping (Seafarers) (Medical Examination)
(Amendment) Regulation 2016**

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Merchant Shipping (Seafarers) (Medical Examination) (Amendment) Regulation 2016

(Made by the Secretary for Transport and Housing under sections 96 and 134 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478))

1. Commencement

This Regulation comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

2. Merchant Shipping (Seafarers) (Medical Examination) Regulation amended

The Merchant Shipping (Seafarers) (Medical Examination) Regulation (Cap. 478 sub. leg. O) is amended as set out in sections 3 to 13.

3. Section 2 amended (interpretation)

(1) Section 2(1), definition of *medical fitness certificate*—

Repeal

everything after “issued under”

Substitute

“section 6(1B) or 11(5)(a) or (b) and includes, except in section 6, a certificate treated under section 5(1) as equivalent to one issued under section 6(1B);”.

(2) Section 2(1)—

- (a) definition of *approved*;
- (b) definition of *crew*;
- (c) definition of *employer*;
- (d) definition of *GRT*;

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(e) definition of *tons* and *tonnage*—

Repeal the definitions.

(3) Section 2(1)—

Add in alphabetical order

“*approved medical practitioner* (認可醫生) means a medical practitioner approved under section 18(1);

Guidelines (《指引》) means the “Guidelines on the Medical Examinations of Seafarers” published by the International Labour Organization and the International Maritime Organization, as amended from time to time;”.

4. Section 3 amended (application)

(1) Section 3(1)(b)—

Repeal

“200 GRT”

Substitute

“500 gross tonnage”.

(2) After section 3(3)—

Add

“(4) In this section—

gross tonnage (總噸位), in relation to a ship, means the gross tonnage of the ship determined in accordance with regulation 6 of the Merchant Shipping (Registration) (Tonnage) Regulations (Cap. 415 sub. leg. C).”.

5. Section 4 amended (prohibition on employment)

(1) Section 4(1)—

Repeal

“subsection (3),”

Substitute

“subsections (3) and (4),”.

- (2) Section 4(1)—

Repeal

everything after “valid medical fitness certificate”

Substitute a full stop.

- (3) Section 4(2)—

Repeal

“Subject to subsection (3), no person”

Substitute

“No person”.

- (4) Section 4(2), English text, after “geographical area”—

Add a comma.

- (5) Section 4—

Repeal subsection (3)

Substitute

- “(3) Subject to the conditions specified in subsection (5), a seafarer employed on a ship whose medical fitness certificate expires while in the course of a voyage may continue to be employed on the ship for the remainder of the voyage.
- (4) Subject to the conditions specified in subsection (5), if there is an urgent need relating to the operation of a ship, a seafarer whose medical fitness certificate expired not more than 6 months ago may, with the

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approval of the Authority, be employed on the ship without a valid medical fitness certificate.

(5) The conditions are—

- (a) the seafarer must, as soon as practicable, obtain a valid medical fitness certificate in a port of call; and
- (b) the period during which the seafarer is employed on the ship, without a valid medical fitness certificate, does not exceed 3 months.”.

6. Section 5 amended (certificates equivalent to a medical fitness certificate)

(1) Section 5, heading—

Repeal

“Certificates equivalent to a medical fitness certificate”

Substitute

“Certificate equivalent to medical fitness certificate issued under section 6(1B)”.

(2) Section 5—

Repeal subsection (1)

Substitute

“(1) A certificate is to be treated as equivalent to a medical fitness certificate issued under section 6(1B) if—

- (a) the issuer of the certificate is qualified to practise medicine under the law of a place outside Hong Kong;

- (b) the issuer has regard to the medical standards, requirements and criteria for seafarers specified in Schedule 1 when determining whether the holder of the certificate is fit for sea service; and
 - (c) the certificate—
 - (i) certifies that the holder is fit for sea service;
 - (ii) contains the information and declarations specified in Schedule 2; and
 - (iii) is in English.”.
- (3) Section 5(2)—

Repeal

“section 6” (wherever appearing)

Substitute

“section 6(1B)”.

7. Section 6 amended (issue of medical fitness certificate)

Section 6—

Repeal subsection (1)

Substitute

- “(1) A person may apply to an approved medical practitioner for a medical fitness certificate.
- (1A) The medical practitioner must conduct a medical examination in respect of the applicant, having regard to the suggested procedures and recommendations set out in Part 3 of the Guidelines.
- (1B) If, having regard to the medical standards, requirements and criteria for seafarers specified in Schedule 1, the medical practitioner considers that the applicant is fit for sea service, the medical

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practitioner must issue a medical fitness certificate to the applicant.

- (1C) A medical fitness certificate issued under subsection (1B) must—
- (a) certify that the holder of the certificate is fit for sea service;
 - (b) contain the information and declarations specified in Schedule 2; and
 - (c) be in English.”.

8. Section 7 substituted

Section 7—

Repeal the section

Substitute

“7. Certification on vision standards

- (1) Despite section 6(1A), an approved medical practitioner may, instead of examining the vision of an applicant, accept the certification by a registered optometrist as proof of the applicant’s vision if the medical practitioner is satisfied that the optometrist, when making the certification, has regard to the vision standards specified in Appendix A to the Guidelines.

- (2) In this section—

registered optometrist (註冊視光師) means an optometrist registered under section 13 or 15 of the Supplementary Medical Professions Ordinance (Cap. 359).”.

9. Section 8 amended (period of validity of certificate)

(1) Section 8—

Repeal

everything before “specify the period”

Substitute

“A medical fitness certificate issued under section 6(1B) or 11(5)(a) or (b) must”.

(2) Section 8—

Repeal

“, for which the certificate shall remain”

Substitute

“by an approved medical practitioner or a medical review panel (as the case requires), for which the certificate is”.

10. Section 9 amended (suspension or cancellation of medical certificate)

(1) Section 9, English text, heading, after “**medical**”—

Add

“**fitness**”.

(2) Section 9(1)(b), English text, after “was issued”—

Add a comma.

(3) Section 9(1)(b)—

Repeal

“referred to in section 6”

Substitute

“, requirements and criteria for seafarers specified in Schedule 1”.

11. Section 11 amended (application for a review)

(1) Section 11(5)(a)—

Repeal

“medical and visual standards”

Substitute

“medical standards, requirements and criteria for seafarers”.

(2) Section 11(5)(a)—

Repeal

“in the form specified in Schedule 2”.

(3) After section 11(5)—

Add

“(5A) A medical fitness certificate issued under subsection (5)(a) or (b) must—

- (a) certify that the holder of the certificate is fit for sea service;
- (b) contain the information and declarations specified in Schedule 2; and
- (c) be in English.”.

12. Section 18 amended (Authority to publish certain lists)

(1) Section 18—

Renumber the section as section 18(2).

(2) Before section 18(2)—

Add

“(1) The Authority may approve a registered medical practitioner to conduct medical examinations, and issue, suspend or cancel medical fitness certificates, in respect of seafarers.”.

(3) After section 18(2)—

Add

“(3) In this section—

registered medical practitioner (註冊醫生) has the meaning given by section 2(1) of the Medical Registration Ordinance (Cap. 161).”.

13. Schedules 1 and 2 substituted

Schedules 1 and 2—

Repeal the Schedules

Substitute

“Schedule 1

[ss. 5, 6, 9, 11 & 17]

Medical Standards, Requirements and Criteria for Seafarers

The medical standards, requirements and criteria for seafarers are those as specified in the following appendices to the Guidelines—

Appendix A Vision Standards

Appendix B Hearing Standards

Appendix C Physical Capability Requirements

Appendix D	Fitness Criteria for Medication Use
Appendix E	Fitness Criteria for Common Medical Conditions

Schedule 2

[ss. 5, 6, 11 & 17]

Contents of Medical Fitness Certificate

1. The following particulars of the holder of the medical fitness certificate—
 - (a) name;
 - (b) date of birth;
 - (c) gender;
 - (d) nationality.
2. A declaration by the issuer of the medical fitness certificate that the identification documents of the holder of the certificate have been checked at the point of the medical examination.
3. A declaration by the issuer of the medical fitness certificate on whether the holder of the certificate is fit for sea service, and in particular, whether—
 - (a) the holder's hearing meets the standards specified in Appendix B to the Guidelines;
 - (b) the holder's unaided hearing is satisfactory;

- (c) the holder's visual acuity meets the standards specified in Appendix A to the Guidelines;
 - (d) the holder's colour vision meets the standards specified in Appendix A to the Guidelines;
 - (e) the holder is fit for lookout duties;
 - (f) there is any limitation or restriction on the holder's fitness and, if so, the limitation or restriction; and
 - (g) the holder is free from any medical condition likely to be aggravated by sea service or to render the holder unfit for the service or to endanger the health of other persons on board.
4. The date of the medical examination.
 5. The expiry date of the medical fitness certificate.
 6. The name of the issuer of the medical fitness certificate and the place where the issuer is qualified to practise medicine.”.

Anthony B. L. CHEUNG
Secretary for Transport and
Housing

16 May 2016

Explanatory Note

The Maritime Labour Convention, 2006 (*Convention*) was adopted by the International Labour Conference of the International Labour Organization in 2006. It sets out a comprehensive set of global standards for the working and living conditions of seafarers on seagoing ships and seeks to protect the right of seafarers to decent employment. The Convention will apply to Hong Kong after China has ratified the Convention and extended it to Hong Kong.

2. The Convention prohibits seafarers from working on seagoing ships unless they are certified as medically fit to perform their duties. The Merchant Shipping (Seafarers) (Medical Examination) Regulation (Cap. 478 sub. leg. O) (*principal Regulation*) provides for the medical standards required to be met by seafarers and the issue of medical fitness certificates. This Regulation amends the principal Regulation to update the medical standards, requirements and criteria for seafarers.
3. The major amendments are as follows—
 - (a) section 4 of the principal Regulation is amended to provide for the circumstances under which seafarers whose medical fitness certificates have expired may be employed on ships;
 - (b) section 5 of the principal Regulation is amended to provide that certificates issued by persons who are qualified to practise medicine under the law of a place outside Hong Kong are to be treated as equivalent to medical fitness certificates issued under section 6(1B) of the principal Regulation if certain conditions are met;

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- (c) section 6 of the principal Regulation is amended to provide for the new medical standards, requirements and criteria for issuing medical fitness certificates (see new Schedule 1 to the principal Regulation). That section is also amended to provide for the contents of medical fitness certificates (see new Schedule 2 to the principal Regulation).